§ 7.33 What time limits apply to DOT with respect to administrative appeals (final determinations)?

(a) *In general.* (1) DOT ordinarily processes appeals according to their order of receipt.

(2) DOT issues a determination with respect to any appeal made pursuant to §7.32(d) within twenty Federal working days after receipt of such appeal, except that in unusual circumstances DOT may extend this time limit by up to ten Federal working days in accordance with §7.34(a) or for more than ten Federal working days in accordance with §7.34(b). DOT notifies the requester making the appeal immediately, in writing, if the agency takes an extension of time. DOT may inform the requester making the appeal, at any time, of exceptional circumstances delaying the processing of the appeal (see §7.34(c)).

(b) *Multi-track processing of appeals.* (1) A DOT component may use two or more processing tracks by distinguishing between simple and more complex appeals based on the amount of work and/or time needed to process the appeal, or based on the amount of information involved.

(2) A DOT component using multi-track processing may provide persons making appeals in its slower track(s) with an opportunity to limit the scope of their appeals in order to qualify for faster processing within the specified limits of the component's faster track(s). A component doing so will contact the person making the appeal either by telephone, letter, facsimile, or electronic mail, whichever is most efficient in each case.

(c) *Expedited processing of appeals.* (1) An appeal is processed out of order and given expedited treatment whenever a compelling need is demonstrated and DOT determines that the compelling need involves:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) A request made by a person primarily engaged in disseminating information, with a time urgency to inform the public of actual or alleged Federal Government activity.

(2) A request for expedited processing may be made at the time of the appeal or at a later time. For a prompt determination, a request for expedited processing must be received by the component that is processing the appeal for the records requested.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that individual's knowledge and belief, explaining in detail the basis for requesting expedited processing. A requester within the category in paragraph (c)(1)(ii) of this section must establish a particular time urgency to inform the public about the Government activity involved in the request, beyond the public's right to know about Government activity generally. A person granted expedited processing under §7.31(c) need merely certify that the same circumstances apply.

(4) Within ten calendar days of receipt of a request for expedited processing, the proper component will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the appeal will be given priority and will be processed as soon as practicable. If a request for expedited processing of an appeal is denied, no further administrative recourse is available.

§ 7.34 When and how are time limits applicable to DOT extended?

(a) In unusual circumstances as specified in this section, DOT may extend the time limits prescribed in §§ 7.31 and 7.33 by written notice to the person making the request or appeal, setting forth the reasons for the extension and the date on which a determination is expected to be issued. Such notice may not specify a date that would result in a cumulative extension of more than ten Federal working days without providing the requester an opportunity to modify the request as noted in this section. As used in this paragraph, ''unusual circumstances'' means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are